



07 FEB 2007

NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON VA 22203

In re Application of  
JEHA et al.  
Serial No.: 10/533,940  
PCT No.: PCT/AU04/00810  
Int. Filing Date: 21 June 2004  
Priority Date: 20 June 2003  
Attorney's Docket No.: 4398-207  
For: BREATHABLE GAS APPARATUS WITH  
HUMIDIFIER

DECISION ON  
PETITION UNDER  
37 CFR 1.47(a) & 1.497

This is a decision on applicants' "Response to Decision on Petition under 37 CFR 1.497(a) and (b)", filed on 29 December 2006 in the United States Patent and Trademark Office (USPTO). Applicant also requests a one month extension of time, which is granted.

### BACKGROUND

On 04 May 2005, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. On 08 July 2005, applicant filed a declaration executed only by Andrew Charles Murray, Mark John Payne and Simone Marie Jeha (who were not identified in the published International application).

On 24 October 2005, a Notification of Missing Requirements was mailed to applicant indicating that the oath or declaration was not executed in accordance with either 37 CFR 1.66 or 1.68 and drawing applicant's attention to the fact that the declaration had not been executed by inventors listed on the International Application.

On 30 November 2005, applicant filed a Response to the Notification of Missing Requirements. On 16 March 2006, a decision was mailed to applicant, indicating the declaration did not identify all the inventors and thus, did meet the requirements of 37 CFR 1.497(a) and (b) and was unacceptable.

On 24 May 2006, applicant filed a "Response to Decision on Response to Notification of Missing Requirements" and a petition under 37 CFR 1.47(a).

On 2 October 2006, a decision dismissing the petition was mailed indicating that Petitioner had failed to satisfy the requirements of 37 CFR 1.497(a) and (b) and 1.47(a). On 29 December 2006, applicant filed the instant response.

### DISCUSSION

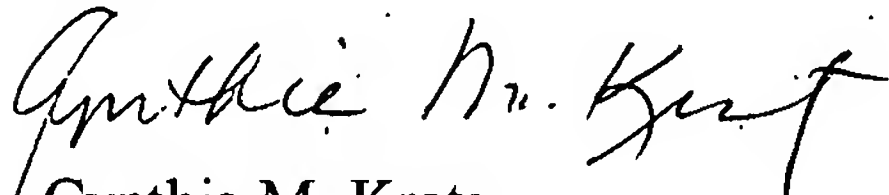
Petitioner has now presented a renewed petition under 37 CFR 1.47(a) along with the declaration signed by inventor Marek Tomasz Supula. A review of the declarations reveals that the declarations identify and are executed by all the inventors named in the international application including those added under PCT Rule 92bis. The declarations state the residency, citizenship and mailing address of each inventor. Thus, the declarations are acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(a) is considered moot as declaration executed by the previously unavailable inventor has now been submitted. The declarations are acceptable under 37 CFR 1.497(a) and (b).

### CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**. The declarations executed by the joint inventors and submitted on 29 December 2006 is in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **29 December 2006**.



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

Tel: 571-272-3286  
Fax: 571-273-0459